Remarks

In response to the Office Action dated January 15, 2008, Applicant respectfully requests reconsideration based on the previous amendments and following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance. Claims 1-3 and 7-11 are pending. Claims 1, 7 and 9-11 have been amended. Claim 21 has been previously withdrawn in response to a previous restriction requirement.

Interview Summary

A telephone interview was conducted on March 18 between the undersigned and Examiners Graham and Beliveau. During the interview it was discussed that the Knee reference merely compared individual rating items of commercials with those of the subscriber viewer to discover the best fit with the viewer. Such a system did not teach or suggest comparing the weighed categories of commercials together to determine the commercial to be shown. The Examiner indicated that he would reconsider and requested clarification in the claims that the weighted categories of commercials were compared together.

112 Rejections

Claims 1-3 and 6-11 stand rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Claim 6 has been cancelled without prejudice or disclaimer. As such the rejection against claim 6 has been rendered moot.

Specifically, the Office Action asserts that there is no written support for "assigning a weighting to at least two classifications for each of the plurality of advertisements…[and] comparing each of the at least two classification weighting…". The Office Action points to claim 7 which recites "sub-classifications" being weighted and not "classifications". In the interest of clarity, Applicant has amended claim 7 to read "classification" as opposed to "sub-classification". As such, sub-classification has been removed from the claims. Support for the amendment that the classifications are weighted may be found on page 13, l. 11-17 and page 17, l. 7-12. As such, the rejection may be withdrawn.

103 Rejections

Claims 1-3, 6-11 have been rejected under 35 USC §103(a) as being unpatentable over Zigmond (US Pat. 6,698,020) in view of Knee (US Pat. App. 20020095676). Claim 6 has been cancelled without prejudice or disclaimer. As such the rejection against claim 6 has been rendered moot. The Office Action rejects independent claim 1 by asserting that the combination of Zigmond describes most of the claim elements but concedes that Zigmond fails to describe the particular usage of 'weighting' in selecting between multiple advertisements that match a given category. The Office Action proceeds by asserting that Knee cures the conceded discrepancy of Zigmond.

Applicant respectfully traverses these rejections. Without conceding to the correctness of the assertions in the Office Actions, Applicant respectfully asserts that amended independent claim 1 recites subject matter not described by the combination of Zigmond and Knee. Amended independent claim 1 recites, in pertinent part:

"[a] method for inserting targeted advertisements into a media delivery stream…comprising…

storing data in a database that represent a plurality of advertisements in a media delivery device…

from the stored data, creating a record associated with each of the plurality of advertisements, the record including a plurality of classifications for each of the plurality of advertisements;

assigning a weighting to at least two classifications for each of the plurality of advertisements…

if the search by classification produces more than one stored advertisement, then selecting the stored advertisement to be inserted by comparing each of the at least two classifications weightings in the record for each of the stored advertisements that were produced by the search…"

Applicant respectfully asserts that Knee fails to describe the subject matter asserted to Knee by the Office Action. Knee is concerned with selecting a commercial from a database for presentation to a viewer. Knee selects the commercial by comparing a set of values that was pre-assigned to the commercial by the television broadcaster (FIG. 2; para. 0020, 0028). The comparison routine in Knee then chooses between two commercials by comparing each set of assigned values to a set of demographic values assigned to the viewer. For example, Knee describes that the viewer demographic statistics (para. 0031) are compared to Advertisement #1 (para. 0032) to determine a fit between the viewer demographic statistics and the values assigned to Advertisement #1. The process is repeated for Advertisement #2. (para. 0033). The

advertisement with a set of values that best fits those of the viewer is then chosen. In effect, a separate comparison must be made between each advertisement and the viewer statistics.

Knee is NOT describing "…comparing each of the at least two classification weightings in the record for each **of the stored advertisements** that were produced by the search …" as recited in the claim. The methodology of Knee is based on a comparison between each set of advertisement values relative to the viewer statistics in order for a selection between two commercials to operate. Such a method is contrary to the claim recitations. Applicant also points out that comparing the assigned values of Advertisement #1 to those of Advertisement #2 would have no meaning in the context of Knee as there would be no commercial relevancy to the viewer which is the point of Knee's system.

The claim recites the need for "…comparing each of the at least two classification weightings in the record for each of the stored advertisements…" Therefore, because Knee fails to describe comparing the sets of values for Advertisement #1 and Advertisement #2 together, Knee fails to describe the subject matter asserted to Knee by the Office Action. Therefore, Knee fails to cure the conceded discrepancy of Zigmond. As such, the combination of Zigmond and Knee can not support a prima-facie case of obviousness against amended independent claim 1 which is therefore allowable over the combination of Zigmond and Knee for at least this reason. Claims 2-3 and 7-11 depend from an allowable amended independent claim 1 and are allowable for at least the same reason.

Conclusion

In view of the foregoing remarks, Applicant respectfully asserts that the present application is in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicant's attorney at the number listed below.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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